

**ORIGINAL**FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

## United States District Court

for the

DISTRICT OF HAWAII

FEB 27 2006  
at 10 o'clock and 40 min. M  
SUE BEITIA, CLERK**Request for Modifying the Conditions or Term of Supervision  
with Consent of the Offender**  
*(Probation Form 49, Waiver of Hearing is Attached)*

Name of Offender: ERNIE SALDUA, JR. Case Number: CR 04-00089DAE-02

Name of Sentencing Judicial Officer: The Honorable David Alan Ezra  
U.S. District Judge

Date of Original Sentence: 1/18/05

Original Offense: Count 1: CONSPIRACY TO DISTRIBUTE AND POSSESS WITH  
INTENT TO DISTRIBUTE 5 KILOGRAMS OR MORE OF  
COCAINE, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A), and  
846, a Class A felonyOriginal Sentence: Thirty-six (36) months imprisonment to be followed by five (5) years  
supervised release with the following special conditions: 1) That  
the defendant provide the Probation Office access to any  
requested financial information; and 2) That the defendant not  
reside in within 100 miles of Las Vegas, Nevada, Reno, Nevada, or  
Atlantic City, New Jersey. And defendant not reside within 25 miles  
of any gambling establishment.

Type of Supervision: Supervised Release Date Supervision Commences: 10/21/06

**PETITIONING THE COURT**

To modify the conditions of supervision as follows:

2. The defendant not reside within 100 miles of Las Vegas, Nevada, Reno,  
Nevada, or Atlantic City, NJ. And defendant **not enter or frequent any  
gambling establishment.**

**CAUSE**

Special Condition No. 2 mandates that "The defendant not reside within 100 miles of Las Vegas, Nevada, Reno, Nevada, or Atlantic City, NJ. And defendant not reside within 25 miles of any gambling establishment." We are requesting that the Court modify this condition because the inherent restrictions of this condition will

prohibit the offender from residing with his mother and sister, both of whom serve as his primary support system, and both of whom reside within 25 miles of a gaming establishment in California.

In the preparation for his release on 10/21/06, the offender requested to relocate to Northern California and reside with his mother and be closer to his sister. The Probation Office in the Northern District of California determined that his mother's residence is suitable and that the offender could be employed part-time with his sister's photography business.

However, the Probation Office was unable to approve the offender's plan to reside with his mother in Mountain View, California, because the residence is located approximately 12 miles from a gaming establishment. According to the Probation Office, it would be difficult for the offender to reside in the state of California given the numerous gambling establishments, unless the Court modifies Special Condition No. 2.

It is recommended that the Court modify Special Condition No. 2 as follows:

**"The defendant not reside within 100 miles of Las Vegas, Nevada, Reno, Nevada, or Atlantic City, NJ. And defendant **not enter or frequent any gambling establishment.**"**

This proposed condition retains the prohibition from residing within 100 miles of cities where gambling is prevalent and prohibits the offender's access to any gaming establishment wherever he may reside, work, and/or travel. It is recommended that the Court modify Special Condition No. 2.

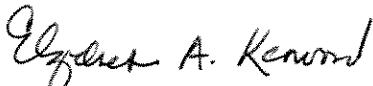
Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release. The offender waives his right to a hearing and to assistance of counsel. The offender agrees to the modification of the conditions of supervised release. The offender's attorney and the U.S. Attorney's Office have been notified of the proposed modification and have no objections to the modification.

Respectfully submitted by,



GENE DeMELLO, JR.  
Supervising U.S. Probation Officer

Approved by:



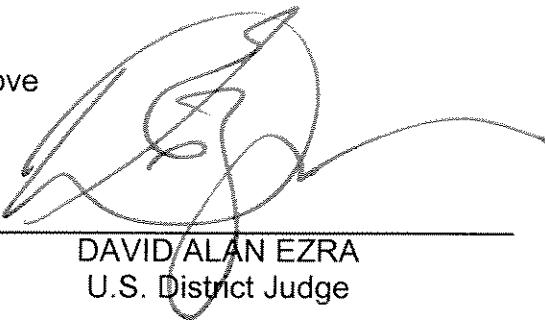
ELIZABETH A. KERWOOD  
Deputy Chief U.S. Probation Officer

Date: 2/23/06

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THE COURT ORDERS:

The Modification of Conditions as Noted Above  
 Other



DAVID ALAN EZRA  
U.S. District Judge

FEB 24 2006

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Date

PROB 49  
(5/96)

## United States District Court

District of Hawaii

### Waiver of Hearing to Modify Conditions of Probation/Supervised Release and/or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

To modify Special Condition No. 2 as follows:

2. The defendant not reside within 100 miles of Las Vegas, Nevada, Reno, Nevada, or Atlantic City, NJ. And defendant **not enter or frequent any gambling establishment.**

Witness: S. R. AGNEW, JR.  
GENE DeMELLO, JR.  
Supervising U.S. Probation Officer

Signed: ERNE SALDUA, JR.  
ERNE SALDUA, JR.  
Supervised Releasee

2-14-06

Date